

Independent Ethics Commission - Rules of Procedure Related to Hearings on Complaints¹

8. HEARINGS

A. The IEC shall hold a public hearing on all complaints within the jurisdiction of the IEC, arising under Article XXIX and under any other standards of conduct and reporting requirements as provided by law that have not been dismissed as frivolous or dismissed on other grounds consistent with the Constitution.

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B. Setting hearings.

1. Hearings on complaints will be set as soon as practicable. A hearing date can be continued only at the discretion of the IEC or upon a showing of good cause as determined by the IEC.

2. The IEC shall send the complainant and the respondent a notice of the hearing date.

3. Any person receiving notice of the hearing may request inspection of IEC documents pertaining to the complaint, with reasonable notice to the IEC, unless such documents constitute investigative work product or are otherwise privileged or confidential. The IEC shall provide such requested non-confidential, non-privileged documents during regular business hours.

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****C.5. Standard of Proof. Pursuant to Colo. Const. art. XXIX, § 5(3)(e), the standard of proof applicable to IEC proceedings shall be a preponderance of the evidence, unless the IEC determines that the circumstances warrant a heightened standard. ****

D. Rules of evidence. To the extent practicable, the Colorado Rules of Evidence apply in all hearings conducted by the IEC. Unless the context requires otherwise, whenever the word “court”, “judge”, or “jury” appears in the Colorado Rules of Evidence, such word shall be construed to mean the IEC. The IEC has discretion to admit evidence not admissible under such rules, as allowed under Colorado law.

****D.3. Hearing. The IEC may conduct such a hearing as is necessary to resolve issues of disputed fact. The IEC may consider filings, admit evidence, receive arguments, examine witnesses, consider the stipulations of parties, or consider other presentations of evidence in the course of a hearing. ****

¹ IEC rules of procedure that are not relevant to the operations of this Ethics Committee are not included in this list of IEC rules.

**** The rules indicated with asterisks are only relevant to the operations of this Ethics Committee if this Committee finds probable cause to proceed to an evidentiary hearing.

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****E. Presentation of evidence. Evidence at a hearing shall be presented through the testimony of witnesses and by the submission of documents or other tangible items. The IEC may consider any evidence obtained during the IEC's investigative phase, and the parties may use or counter such evidence as is normally permitted under the Colorado Rules of Evidence. Testimony by affidavit or by telephone may be permitted at the discretion of the IEC if a witness is unavailable to testify in person. All arrangements for the taking of testimony by telephone or video conference shall be made by the party requesting such testimony, who shall be responsible for all costs associated with the testimony. The IEC may exclude evidence that is not relevant, that is cumulative, or for such other reasons as determined by the IEC.****

****F. The IEC, in its discretion, may accept written closing statements.****

G. The IEC does not supply court reporters. All hearings shall be electronically recorded. If any party wishes to have all or a portion of a proceeding transcribed by a court reporter, that party may make private arrangements to do so at that party's own expense. The recording of any proceeding made electronically by the IEC shall be the official record.

H. IEC decision.

1. A copy of the IEC's written decision concerning any complaint that proceeds to hearing shall be sent to all parties of record at the earliest practicable time.

2. A copy of the IEC's written decision concerning any complaint that proceeds to hearing will be published on the IEC website at the earliest practicable time.

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9. GENERAL

A. *Ex parte* communications with any Commissioner concerning any matter before the IEC are strictly prohibited.

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D. Computation of time. In computing any period of time described in these rules, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period of time shall be included unless it is a Saturday, Sunday, or a legal holiday, in which event the period of time runs until the next day which is not a Saturday, Sunday, or legal holiday.